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7 M. NIEMAN P#1012, ALVEREZ [sic] P #1795,
COBB P#1839, and UNKNOWN SUPERVISOR P#1354
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF NEVADA
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13 LAURICE McCURDY,
14 Plaintiff,

15 vs.

16 LEROY KIRKEGARD, et al.,
17 Defendants.
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Case No. 2:08-cv-01742-PMP(PAL)

**DEFENDANTS M. NIEMAN P#1012,
ALVEREZ [sic] P #1795,
COBB P#1839, and UNKNOWN
SUPERVISOR P#1354'S
MOTION TO STRIKE PLAINTIFF'S
TRAVERSE TO ANSWER**

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21 Defendants M. NIEMAN P#1012, ALVEREZ [sic] P #1795, COBB P#1839, UNKNOWN
22 SUPERVISOR P#1354 ("Defendants"), by and through their attorney Noel E. Eidsmore of the North
23 Las Vegas City Attorney's Office, hereby submit their Motion to Strike Plaintiff's "Traverse to
24 Answer to Plaintiff's Amended Complaint by Defendants Cobb, M. Nieman, Alvarez, and Unknown
25 Supervisor" [83].
26 ...
27 ...
28 ...

1 This motion is based on the pleadings and papers on file herein, and the Points and
2 Authorities that follow.

3 DATED this 2nd day of September, 2010.

4 NICHOLAS G. VASKOV
5 Acting City Attorney

6 By: /s/ Noel E. Eidsmore
7 NOEL E. EIDSMORE
8 Deputy City Attorney
9 Nevada Bar No. 7688
10 Attorneys for Defendants
11 M. NIEMAN P#1012, ALVEREZ [sic]
12 P #1795, COBB P#1839, and
13 UNKNOWN SUPERVISOR P#1354

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. BACKGROUND**

16 On June 17, 2010, Defendants filed an Answer [48] to Plaintiff's Amended Complaint [18].
17 Approximately two months later on August 19, 2010, Plaintiff filed a document, without permission
18 of this Court, titled "Plaintiff's Traverse to Answer to Plaintiff's Amended Complaint by
19 Defendants Cobb, M. Nieman, Alvarez, and Unknown Supervisor" [83]. Plaintiff's "Traverse" not
20 only contains redundant ramblings and serve no purpose or pertinence, but is completely immaterial
21 and should be stricken.

22 **II. PLAINTIFF'S TRAVERSE SHOULD BE STRICKEN PURSUANT TO FED. R. CIV.
23 P. 12(f) BECAUSE IT IS IMPERMISSIBLE, REDUNDANT, IMMATERIAL AND
24 IMPERTINENT**

25 Pursuant to Fed. R. Civ. P. 12(f), "the Court may strike from a pleading an insufficient
26 defense or any redundant, immaterial, impertinent, or scandalous matter." Plaintiff filed his
27 "Traverse" pleading more than 60 days after Defendants filed their Answer. It is obvious from
28 Plaintiff's barrage of filings directed on other parties in this case, he felt a need to create an
immaterial filing to include Defendants' Answer, albeit 60 days after the fact. Due to the fact that
Plaintiff's Traverse is immaterial to the proceedings, it would be proper for the Court to strike the
Traverse in its entirety pursuant to Fed. R. Civ. P. 12(f).

1 The Court should consider Plaintiff's filing as a wayward rogue pleading, which consists of
2 pages of redundant and impertinent phraseology. Plaintiff asks for no remedy or direction from this
3 Court. Plaintiff dissipates each section of Defendants' answer by repetitively alleging almost every
4 paragraph as being "dishonest, specious, misleading, irrelevant, and without merit." As Plaintiff's
5 Traverse is redundant and impertinent, the Court should strike the Traverse in its entirety pursuant
6 to Fed. R. Civ. P. 12(f).

7 **II. CONCLUSION**

8 Based on the fact that Plaintiff's Traverse is redundant, immaterial and impertinent and is
9 in direct violation of Fed. R. Civ. P. 12(f), Defendants M. NIEMAN P#1012, ALVEREZ [sic]
10 P#1795, COBB P#1839, and UNKNOWN SUPERVISOR P#1354 respectfully request that the Court
11 strike Plaintiff's Traverse to Defendants' Answer in its entirety.

12 Respectfully submitted this 2nd day of September, 2010.

13 NICHOLAS G. VASKOV
14 Acting City Attorney

15 By: /s/ Noel E. Eidsmore
16 NOEL E. EIDSMORE
17 Deputy City Attorney
18 Nevada Bar No. 7688
19 Attorneys for Defendants
20 M. NIEMAN P#1012, ALVEREZ [sic]
21 P #1795, COBB P#1839, and
22 UNKNOWN SUPERVISOR P#1354

23 **IT IS SO ORDERED.**

24 
25 **UNITED STATES DISTRICT JUDGE**

26 **Dated:** September 3, 2010
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